

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE PINE CREEK VALLEY
WATERSHED ASSOC., RAYMOND
PROFFITT FOUNDATION, THE
DELAWARE RIVERKEEPER
NETWORK, and THE DELAWARE
RIVERKEEPER C/O JOHN WILMER,
ESQ.,

Plaintiffs,

v.

THE UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, GINA MCCARTHY,
Administrator, and SHAWN GAVIN,
Region III Administrator,

Defendants.

CIVIL ACTION NO. 14-1478

ORDER

AND NOW, this 17th day of March, 2015, after considering the motion to dismiss filed by the defendants (Doc. No. 16), the response in opposition to the motion filed by the plaintiffs (Doc. No. 19), the reply in support of the motion filed by the defendants (Doc. No. 24), and the supplemental memorandum of law filed by the plaintiffs (Doc. No. 34); and after reviewing the complaint and attached exhibits (Doc. Nos. 1-2);

AND AFTER FURTHER REVIEWING the motion for summary judgment and accompanying memorandum of law filed by the plaintiffs (Doc. Nos. 32-33), the responses in opposition to the plaintiffs' motion filed by the defendants and the intervenors (Doc. Nos. 37-38), the motion for summary judgment filed by the intervenors (Doc. No. 35), the response in opposition to the intervenors' motion filed by the plaintiffs (Doc. No. 40), the motion for summary judgment and accompanying materials filed by the defendants (Doc. No. 36), the

response in opposition to the defendants' motion filed by the plaintiffs (Doc. No. 39), and the reply in support of the motion filed by the defendants (Doc. No. 41); and after oral argument held before the undersigned on November 12, 2014; accordingly, and for the reasons expressed in the accompanying memorandum opinion, it is hereby **ORDERED** as follows:

1. The motion to dismiss (Doc. No. 16) is **GRANTED** and the complaint is **DISMISSED** as follows:

a. The claim arising under the Clean Water Act, 33 U.S.C. §§ 1251-1388, is **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction; and

b. The claim arising under the Administrative Procedure Act, 5 U.S.C. §§ 701-706, is **DISMISSED WITH PREJUDICE**;

2. The outstanding motions for summary judgment (Doc. Nos. 32, 35, 36) are **DENIED AS MOOT**; and

3. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.